MAIL STOP APPEAL BRIEF-PATENTS
8028-1019
PATENTS

IN THE U.S. PATENT AND TRADEMARK OFFICE BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of

Saburou IKEDA	Appeal No. _____
Application No. 09/893,706	Group 3639
Filed June 29, 2001	Examiner A. Robinson Boyce

SYSTEM FOR TOLL PAYMENT AND
TRANSPORTATION MANAGEMENT

<u>**REPLY BRIEF**</u>

MAY IT PLEASE YOUR HONORS:

This Reply Brief is in response to the Examiner's Answer mailed November 30, 2006 and addresses two limitations wherein the Examiner has indicated elements in the references, which the Examiner believes correspond to recited elements. The Reply Brief points out why those elements do not meet the corresponding recited limitations, while not conceding those limitations that are not further argued.

The first element, which is included in each of the independent claims, is a second memory for storing names of contractors or their car numbers and unit toll for each section along a highway. This memory is part of a server and is used not only to determine the toll amount due, but also on a more basic level, to determine whether the name in the memory is a person that has a contract with the toll collecting company and thus, is

entitled to use the electronic payment service. See, for example, page 7, lines 13-20 of the present specification.

The Examiner's position as set forth in the last paragraph on page 10 of the Examiner's Answer is that since TREYZ et al.'s system is capable of storing car numbers through capturing, then storing the images of license plates as disclosed on column 78, lines 8-10 and lines 27-30, such storing function meets the limitation of the recited memory.

However, as pointed out in the Appeal Brief (last two paragraphs of page 4 and first two paragraphs of page 5) the number that is captured by TREYZ is the license number of a car that is following TREYZ, not the license number of TREYZ. The person following TREYZ may not have a contract with the toll payment service and in any event, such person may have traveled a different distance than TREYZ.

Calculating a toll based on the person following TREYZ is nonsensical and defeats the purpose of having a toll calculated for each individual user based on the distance that person has traveled. TREYZ does not suggest a second memory for storing names of contractors or their car numbers and unit toll for each section along a highway and thus, such limitation would not have been obvious in view of TREYZ.

The second element is the recited toll calculation unit.

On page 17, lines 6-7 of the Examiner's Answer, the Examiner acknowledges that TREYZ does not disclose a server that

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includes a toll calculation unit. Rather, the Examiner relies on HASSETT for the suggestion to modify TREYZ to include this feature. Column 4, lines 31-44 of HASSETT are offered in the Official Action as disclosing this feature.

However, the proposed combination of references disregards the claimed invention as a whole.

In the toll payment system of the present invention, for a car entering and exiting from a toll highway, a portable telephone in the car is used to access a server, which includes a toll payment unit. Through the server, the portable telephone cooperates with a banking institution. Based on information such as location information and electronic payment information a person using the inventive system is able to pay a toll using a portable telephone.

TREYZ teaches the general concept of collecting a toll using a personal computer 14. See column 54, lines 30-51. However, TREYZ does not provide a disclosure as to how the toll is calculated or which variables are used for such calculation. It appears that the toll agency calculates the toll and the toll is paid through an electronic debiting of an account through a wireless interaction with the computer 14 of TREYZ.

HASSETT relies on each individual vehicle having a toll calculation unit calculating a toll for that vehicle. HASSETT uses a dedicated device on each vehicle to calculate the toll due. HASSET neither provides the motivation, nor provides the

insight to calculate a toll at a server so that a toll can be paid using a portable telephone.

Thus, when the claims are properly analyzed under 35 USC 103 taking into account the invention as a whole, the present claims would not have been obvious over the proposed combination of references.

Independent claims 2, 17-20 and 23 include similar limitations and the analysis above regarding claim 1 is equally applicable to claims 2, 17-20 and 23.
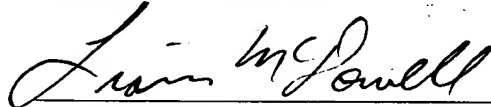
The dependent claims are patentable at least for depending from an allowable independent claim.

In view of the foregoing, it follows that the rejection under §103 of claims 1-20 and 23 as unpatentable over TREYZ et al. in view of HASSETT is improper and should be reversed.

Reversal of this rejection is accordingly respectfully solicited.

Respectfully submitted,

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